

STATE OF MAINE

MAINE CLEAN ELECTION ACT 21-A M.R.S.A. Sections 1121 - 1128



COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

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**Appropriation 010 94E 0414 01
 014 94E 0414 02**

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CHAPTER 14
THE MAINE CLEAN ELECTION ACT

21A § 1121. Short title

This chapter may be known and cited as the "Maine Clean Election Act."

21A § 1122. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

- 1. Certified candidate.** "Certified candidate" means a candidate running for Governor, State Senator or State Representative who chooses to participate in the Maine Clean Election Act and who is certified as a Maine Clean Election Act candidate under section 1125, subsection 5.
- 2. Commission.** "Commission" means the Commission on Governmental Ethics and Election Practices established by Title 5, section 12004-G, subsection 33.
- 3. Contribution.** "Contribution" has the same meaning as in section 1012, subsection 2.
- 4. Fund.** "Fund" means the Maine Clean Election Fund established in section 1124.
- 5. Nonparticipating candidate.** "Nonparticipating candidate" means a candidate running for Governor, State Senator or State Representative who does not choose to participate in the Maine Clean Election Act and who is not seeking to be certified as a Maine Clean Election Act candidate under section 1125, subsection 5.
- 6. Participating candidate.** "Participating candidate" means a candidate who is running for Governor, State Senator or State Representative who is seeking to be certified as a Maine Clean Election Act candidate under section 1125, subsection 5.
- 7. Qualifying contribution.** "Qualifying contribution" means a donation:
 - A. Of \$5 in the form of a check or a money order payable to the fund in support of a candidate;
 - B. Made by a registered voter within the electoral division for the office a candidate is seeking;
 - C. Made during the designated qualifying period and obtained with the knowledge and approval of the candidate; and
 - D. That is acknowledged by a written receipt that identifies the name and address of the donor on forms provided by the commission.
- 8. Qualifying period.** "Qualifying period" means the following.

A. For a gubernatorial participating candidate, the qualifying period begins November 1st immediately preceding the election year and ends at 5:00 p.m. on April 15th of the election year unless the candidate is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year.

B. For State Senate or State House of Representatives participating candidates, the qualifying period begins January 1st of the election year and ends at 5:00 p.m. on April 15th of that election year unless the candidate is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year.

9. Seed money contribution. "Seed money contribution" means a contribution of no more than \$100 per individual made to a candidate, including a contribution from the candidate or the candidate's family. To be eligible for certification, a candidate may collect and spend only seed money contributions subsequent to becoming a candidate as defined by section 1, subsection 5 and throughout the qualifying period. A candidate may not collect or spend seed money contributions after certification as a Maine Clean Election Act candidate. A seed money contribution must be reported according to procedures developed by the commission.

21A § 1123. Alternative campaign financing option

This chapter establishes an alternative campaign financing option available to candidates running for Governor, State Senator and State Representative. This alternative campaign financing option is available to candidates for elections to be held beginning in the year 2000. The commission shall administer this Act and the fund. Candidates participating in the Maine Clean Election Act must also comply with all other applicable election and campaign laws and regulations.

21A § 1124. The Maine Clean Election Fund established; sources of funding

1. Established. The Maine Clean Election Fund is established to finance the election campaigns of certified Maine Clean Election Act candidates running for Governor, State Senator and State Representative and to pay administrative and enforcement costs of the commission related to this Act. The fund is a special, dedicated, nonlapsing fund and any interest generated by the fund is credited to the fund. The commission shall administer the fund.

2. Sources of funding. The following must be deposited in the fund:

A. The qualifying contributions required under section 1125 when those contributions are submitted to the commission;

B. Two million dollars of the revenues from the taxes imposed under Title 36, Parts 3 and 8 and credited to the General Fund, transferred to the fund by the Treasurer of State on or before January 1st of each year, beginning January 1, 1999. These revenues must be offset in an equitable manner by an equivalent reduction within the administrative divisions of the legislative branch and

executive branch agencies. This section may not affect the funds distributed to the Local Government Fund under Title 30-A, section 5681;

C. Revenue from a tax checkoff program allowing a resident of the State who files a tax return with the State Tax Assessor to designate that \$3 be paid into the fund. If a husband and wife file a joint return, each spouse may designate that \$3 be paid. The State Tax Assessor shall report annually the amounts designated for the fund to the State Controller, who shall transfer that amount to the fund;

D. Seed money contributions remaining unspent after a candidate has been certified as a Maine Clean Election Act candidate;

E. Fund revenues that were distributed to a Maine Clean Election Act candidate and that remain unspent after the candidate has lost a primary election or after all general elections;

F. Other unspent fund revenues distributed to any Maine Clean Election Act candidate who does not remain a candidate throughout a primary or general election cycle;

G. Voluntary donations made directly to the fund; and

H. Fines collected under section 1020-A, subsection 4 and section 1127.

3. Determination of fund amount. By September 1st preceding each election year, the commission shall publish an estimate of revenue in the fund available for distribution to certified candidates during the upcoming year's elections.

21A § 1125. Terms of participation

1. Declaration of intent. A participating candidate must file a declaration of intent to seek certification as a Maine Clean Election Act candidate and to comply with the requirements of this chapter. The declaration of intent must be filed with the commission prior to or during the qualifying period, except as provided in subsection 11, according to forms and procedures developed by the commission. A participating candidate must submit a declaration of intent prior to collecting qualifying contributions under this chapter.

2. Restrictions on contributions for participating candidates. Subsequent to becoming a candidate as defined by section 1, subsection 5 and prior to certification, a participating candidate may not accept contributions, except for seed money contributions. A participating candidate must limit the candidate's seed money contributions to the following amounts:

A. Fifty thousand dollars for a gubernatorial candidate;

B. One thousand five hundred dollars for a candidate for the State Senate; or

C. Five hundred dollars for a candidate for the State House of Representatives.

The commission may, by rule, revise these amounts to ensure the effective implementation of this chapter.

3. Qualifying contributions. Participating candidates must obtain qualifying contributions during the qualifying period as follows:

- A. For a gubernatorial candidate, at least 2,500 verified registered voters of this State must support the candidacy by providing a qualifying contribution to that candidate;
- B. For a candidate for the State Senate, at least 150 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate; or
- C. For a candidate for the State House of Representatives, at least 50 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate.

A payment, gift or anything of value may not be given in exchange for a qualifying contribution. A candidate may pay the fee for a money order in the amount of \$5, which is a qualifying contribution, as long as the donor making the qualifying contribution pays the \$5 amount reflected on the money order. Any money order fees paid by a participating candidate must be paid for with seed money and reported in accordance with commission rules.

4. Filing with commission. A participating candidate must submit qualifying contributions to the commission during the qualifying period according to procedures developed by the commission, except as provided under subsection 11.

5. Certification of Maine Clean Election Act candidates. Upon receipt of a final submittal of qualifying contributions by a participating candidate, the commission shall determine whether or not the candidate has:

- A. Signed and filed a declaration of intent to participate in this Act;
- B. Submitted the appropriate number of valid qualifying contributions;
- C. Qualified as a candidate by petition or other means;
- D. Not accepted contributions, except for seed money contributions, and otherwise complied with seed money restrictions; and
- E. Otherwise met the requirements for participation in this Act.

The commission shall certify a candidate complying with the requirements of this section as a Maine Clean Election Act candidate as soon as possible and no later than 3 days after final submittal of qualifying contributions.

Upon certification, a candidate must transfer to the fund any unspent seed money contributions. A certified candidate must comply with all requirements of this Act after certification and throughout the primary and general election periods. Failure to do so is a violation of this chapter.

6. Restrictions on contributions and expenditures for certified candidates. After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the fund and may not accept any contributions unless specifically authorized by the commission. All revenues distributed to certified candidates from the fund must be used for campaign-related purposes. The commission shall publish guidelines outlining permissible campaign-related expenditures.

7. Timing of fund distribution. The commission shall distribute to certified candidates revenues from the fund in amounts determined under subsection 8 in the following manner.

A. Within 3 days after certification, for candidates certified prior to March 15th of the election year, revenues from the fund must be distributed as if the candidates are in an uncontested primary election.

B. Within 3 days after certification, for all candidates certified between March 15th and April 15th of the election year, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested primary election.

B-1. For candidates in contested primary elections receiving a distribution under paragraph A, additional revenues from the fund must be distributed within 3 days of March 15th of the election year.

C. Within 3 days after the primary election results are certified, for general election certified candidates, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested general election.

Funds may be distributed to certified candidates under this section by any mechanism that is expeditious, ensures accountability and safeguards the integrity of the fund.

8. Amount of fund distribution. By July 1, 1999 of the effective date of this Act, and at least every 4 years after that date, the commission shall determine the amount of funds to be distributed to participating candidates based on the type of election and office as follows.

A. For contested primary elections, the amount of revenues to be distributed is the average amount of campaign expenditures made by each candidate during all contested primary election races for the immediately preceding 2 primary elections as reported in the initial filing period subsequent to the primary election for the respective offices of Governor, State Senate and State House of Representatives.

B. For uncontested primary elections, the amount of revenues distributed is the average amount of campaign expenditures made by each candidate during all uncontested primary election races, or for contested races if that amount is lower, for the immediately preceding 2 primary elections as reported in the initial filing

period subsequent to the primary election for the respective offices of Governor, State Senate and State House of Representatives.

C. For contested general elections, the amount of revenues distributed is the average amount of campaign expenditures made by each candidate during all contested general election races for the immediately preceding 2 general elections as reported in the initial filing period subsequent to the general election for the respective offices of Governor, State Senate and State House of Representatives.

D. For uncontested general elections, the amount of revenues to be distributed from the fund is 40% of the amount distributed to a participating candidate in a contested general election.

If the immediately preceding two election cycles do not contain sufficient electoral data, the commission shall use information from the most recent applicable elections. For only the initial computations under subsections A to C that are conducted by July 1, 1999, the commission shall reduce the amounts to be distributed by 25%.

9. Matching funds. When any campaign, finance or election report shows that the sum of a candidate's expenditures or obligations, or funds raised or borrowed, whichever is greater, alone or in conjunction with independent expenditures reported under section 1019, exceeds the distribution amount under subsection 8, the commission shall issue immediately to any opposing Maine Clean Election Act candidate an additional amount equivalent to the reported excess. Matching funds are limited to 2 times the amount originally distributed under subsection 8, paragraph A or C, whichever is applicable.

10. Candidate not enrolled in a party. An unenrolled candidate certified by April 15th preceding the primary election is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election candidate and a general election candidate as specified in subsections 7 and 8. For an unenrolled candidate not certified by April 15th at 5:00 p.m. the deadline for filing qualifying contributions is 5:00 p.m. on June 2nd preceding the general election. An unenrolled candidate certified after April 15th at 5:00 p.m. is eligible for revenues from the fund in the same amounts as a general election candidate, as specified in subsections 7 and 8.

11. Other procedures. The commission shall establish by rule procedures for qualification, certification, disbursement of fund revenues and return of unspent fund revenues for races involving special elections, recounts, vacancies, withdrawals or replacement candidates.

12. Reporting; unspent revenue. Notwithstanding any other provision of law, participating and certified candidates shall report any money collected, all campaign expenditures, obligations and related activities to the commission according to procedures developed by the commission. Upon the filing of a final report for any primary election in which the candidate was defeated and for all general elections that candidate shall return all unspent fund revenues to the commission. In developing these procedures, the commission shall utilize existing campaign reporting procedures whenever practicable. The commission shall ensure timely public access to campaign finance data and may utilize electronic means of reporting and storing information.

13. Distributions not to exceed amount in fund. The commission may not distribute revenues to certified candidates in excess of the total amount of money deposited in the fund as set forth in section 1124. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to meet distributions under subsections 8 or 9, the commission may permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than \$500 per donor per election for gubernatorial candidates and \$250 per donor per election for State Senate and State House candidates, up to the applicable amounts set forth in subsections 8 and 9 according to rules adopted by the commission.

14. Appeals. A candidate who has been denied certification as a Maine Clean Election Act candidate or the opponent of a candidate who has been granted certification as a Maine Clean Election Act candidate may challenge a certification decision by the commission as follows.

A. A challenger may appeal to the full commission within 3 days of the certification decision. The appeal must be in writing and must set forth the reasons for the appeal.

B. Within 5 days after an appeal is properly made and after notice is given to the challenger and any opponent, the commission shall hold a hearing. The appellant has the burden of providing evidence to demonstrate that the commission decision was improper. The commission must rule on the appeal within 3 days after the completion of the hearing.

C. A challenger may appeal the decision of the commission in paragraph B by commencing an action in Superior Court according to the procedure set forth in section 356, subsection 2, paragraphs D and E.

D. A candidate whose certification by the commission as a Maine Clean Election Act candidate is revoked on appeal must return to the commission any unspent revenues distributed from the fund. If the commission or court find that an appeal was made frivolously or to cause delay or hardship, the commission or court may require the moving party to pay costs of the commission, court and opposing parties, if any.

21A § 1126. Commission to adopt rules

The commission shall adopt rules to ensure effective administration of this chapter. These rules must include but must not be limited to procedures for obtaining qualifying contributions, certification as a Maine Clean Election Act candidate, circumstances involving special elections, vacancies, recounts, withdrawals or replacements, collection of revenues for the fund, distribution of fund revenue to certified candidates, return of unspent fund disbursements, disposition of equipment purchased with clean election funds and compliance with the Maine Clean Election Act. Rules of the commission

required by this section are major, substantive rules as defined in Title 5, chapter 375, subchapter II-A.

21A § 1127. Violations

1. Civil penalty. In addition to any other penalties that may be applicable, a person who violates any provision of this chapter is subject to a civil penalty not to exceed \$10,000 per violation payable to the fund. This penalty is recoverable in a civil action. In addition to any fine, for good cause shown, a candidate found in violation of this chapter may be required to return to the fund all amounts distributed to the candidate from the fund. If the commission makes a determination that a violation of this chapter has occurred, the commission shall assess a fine or transmit the finding to the Attorney General for prosecution. Fines paid under this section must be deposited in the fund. In determining whether or not a candidate is in violation of the expenditure limits of this chapter, the commission may consider as a mitigating factor any circumstances out of the candidate's control.

2. Class E crime. A person who willfully or knowingly violates this chapter or rules of the commission or who willfully or knowingly makes a false statement in any report required by this chapter commits a Class E crime and, if certified as a Maine Clean Election Act candidate, must return to the fund all amounts distributed to the candidate.

21A § 1128. Study report

By January 30, 2002 and every four years after that date, the commission shall prepare for the joint standing committee of the Legislature having jurisdiction over legal affairs a report documenting, evaluating and making recommendations relating to the administration, implementation and enforcement of the Maine Clean Election Act and Maine Clean Election Fund.

MISCELLANEOUS STATUTORY PROVISIONS

36 MRSA §5286. Contribution to Maine Clean Election Fund; voluntary check off

1. Designation. Resident taxpayers may designate that \$3 of their taxes be deposited in the Maine Clean Election Fund in accordance with Title 21-A, section 1124.

2. Forms. The State Tax Assessor shall provide on the first page of the income tax form a space for the filing individual to indicate whether that filer wishes to pay \$3, or \$6 if filing a joint return, from the General Fund of the State to finance the Maine Clean Election Fund.

3. Transfer of funds. The State Tax Assessor shall transfer funds from the General Fund in accordance with Title 21-A, section 1124.